

1-1 By: Duncan S.B. No. 597  
1-2 (In the Senate - Filed February 19, 2003; February 25, 2003,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 March 12, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 12, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 597 By: Duncan

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the regulation of certain companies that provide  
1-11 for-profit legal service contracts; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle B, Title 5, Occupations Code, is  
1-14 amended by adding Chapter 953 to read as follows:

1-15 CHAPTER 953. REGULATION OF FOR-PROFIT LEGAL SERVICE CONTRACT  
1-16 COMPANIES

1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 953.001. DEFINITIONS. In this chapter:

1-19 (1) "Administrator" means the person responsible for  
1-20 the administration of a legal service contract. The term includes a  
1-21 person responsible for any filing required by this chapter.

1-22 (2) "Company" means a person who:

1-23 (A) is contractually obligated to a legal service  
1-24 contract holder under the terms of a legal service contract;

1-25 (B) enters into a contract with a contracting  
1-26 attorney to provide or obtain covered legal services for a legal  
1-27 service contract holder; and

1-28 (C) operates as a for-profit legal service  
1-29 contract company.

1-30 (3) "Contracting attorney" means an attorney who has  
1-31 entered into a contract with a company to provide or obtain covered  
1-32 legal services for a legal service contract holder.

1-33 (4) "Department" means the Texas Department of  
1-34 Licensing and Regulation.

1-35 (5) "Executive director" means the executive director  
1-36 of the Texas Department of Licensing and Regulation or the  
1-37 executive director's designee.

1-38 (6) "Financial security" means a surety bond, a  
1-39 certificate of deposit, or any other item approved by the executive  
1-40 director.

1-41 (7) "Legal service contract" means an agreement:

1-42 (A) that is entered into for a separately stated  
1-43 consideration; and

1-44 (B) under which the company obtains legal  
1-45 services for a legal service contract holder through a contracting  
1-46 attorney.

1-47 (8) "Legal service contract holder" means the person  
1-48 who purchases or otherwise holds a legal service contract or who is  
1-49 covered under a group legal service contract.

1-50 (9) "Person" means an individual or a partnership,  
1-51 company, corporation, association, or other private group.

1-52 (10) "Sales representative" means a person who sells  
1-53 or solicits legal service contracts to a person on behalf of a  
1-54 company.

1-55 Sec. 953.002. EXEMPTIONS. This chapter does not apply to:

1-56 (1) a nonprofit legal services corporation under  
1-57 Chapter 961, Insurance Code;

1-58 (2) an automobile club supplying services under  
1-59 Chapter 722, Transportation Code;

1-60 (3) a prepaid legal services program under Chapter  
1-61 951;

1-62 (4) a lawyer referral service under Chapter 952;

1-63 (5) a retainer contract between an attorney and a

2-1 client, and similar contracts made with a group of clients involved  
 2-2 in the same or closely related legal matters; or

2-3 (6) a contingency fee contract between an attorney and  
 2-4 a client.

2-5 Sec. 953.003. EXEMPTIONS FROM CERTAIN OTHER LAWS. The acts  
 2-6 of marketing, selling, offering for sale, issuing, making,  
 2-7 proposing to make, and administering a legal service contract that  
 2-8 is regulated by this chapter are exempt from the Insurance Code and  
 2-9 other laws of this state regulating the business of insurance.

2-10 Sec. 953.004. PREPAID LEGAL SERVICE CONTRACT PROGRAMS.  
 2-11 (a) An insurer who issues or renews prepaid legal service  
 2-12 contracts under Article 5.13-1, Insurance Code, shall notify the  
 2-13 commissioner of insurance in writing not later than the 60th day  
 2-14 before transferring regulation of the insurer's legal service  
 2-15 contracts from the Texas Department of Insurance to the Texas  
 2-16 Department of Licensing and Regulation. An insurer that complies  
 2-17 with this section is exempt from the requirements of:

2-18 (1) Articles 21.49-2, 21.49-2A, 21.49-2B, 21.49-2D,  
 2-19 and 21.49-2E, Insurance Code; and

2-20 (2) Chapter 827, Insurance Code.

2-21 (b) The exemptions described by Subsection (a) begin on the  
 2-22 date the commissioner receives the notice under Subsection (a) and  
 2-23 apply until the insurer registers with the department as required  
 2-24 by Section 953.052.

2-25 Sec. 953.005. POWERS AND DUTIES OF EXECUTIVE DIRECTOR.

2-26 (a) The executive director may investigate a company,  
 2-27 administrator, sales representative, or other person as necessary  
 2-28 to enforce this chapter and protect legal service contract holders  
 2-29 in this state.

2-30 (b) On request of the executive director, a company or sales  
 2-31 representative shall make the records relevant to the regulation of  
 2-32 legal service contracts in this state available to the executive  
 2-33 director as necessary to enable the executive director to  
 2-34 reasonably determine compliance with this chapter.

2-35 (c) After contacting the company that has contracted with  
 2-36 the contracting attorney, the executive director may refer a  
 2-37 complaint received by the department concerning the performance of  
 2-38 a contracting attorney to:

2-39 (1) the State Bar of Texas;

2-40 (2) the appropriate licensing agency of another  
 2-41 jurisdiction, if applicable; or

2-42 (3) any person designated by law to receive complaints  
 2-43 from the public concerning the performance of an attorney.

2-44 (d) The executive director may adopt rules as necessary to  
 2-45 implement this chapter.

2-46 [Sections 953.006-953.050 reserved for expansion]

2-47 SUBCHAPTER B. REGISTRATION REQUIREMENTS

2-48 Sec. 953.051. REGISTRATION REQUIRED. (a) A person may not  
 2-49 operate as a company or sales representative of legal service  
 2-50 contracts sold in this state unless the person is registered with  
 2-51 the department. A company's contract may only be sold by a sales  
 2-52 representative who is registered with the department.

2-53 (b) A person who collects commissions for the sale of legal  
 2-54 service contracts but who does not actively sell or solicit legal  
 2-55 service contracts is not required to register under this  
 2-56 subchapter.

2-57 Sec. 953.052. APPLICATION FOR REGISTRATION. (a) An  
 2-58 applicant for registration must submit an application to the  
 2-59 department. The application must be in the form prescribed by the  
 2-60 executive director.

2-61 (b) An application for registration as a company must  
 2-62 include evidence satisfactory to the executive director of  
 2-63 compliance with the applicable financial security requirements  
 2-64 prescribed by Subchapter C.

2-65 (c) An application for registration as a sales  
 2-66 representative must include a list of the companies for which the  
 2-67 sales representative will sell or solicit legal service contracts.

2-68 Sec. 953.053. FEES. (a) The executive director shall  
 2-69 develop a tiered fee schedule of annual registration fees under

3-1 which a company's registration fee is based on the number of legal  
 3-2 service contracts the company sold in this state during the  
 3-3 preceding 12-month period. The executive director shall set the  
 3-4 amounts of the fees required by this subsection to cover the costs  
 3-5 of administering this chapter.

3-6 (b) In addition to the annual registration fee required by  
 3-7 Subsection (a), the executive director shall collect from each  
 3-8 company a fee equal to 1.7 percent of the annual price of each legal  
 3-9 service contract the company sells in this state. The executive  
 3-10 director shall establish a schedule and procedure for collecting  
 3-11 this fee.

3-12 (c) To be registered, a company must pay the appropriate  
 3-13 fees required by this section.

3-14 Sec. 953.054. INFORMATION CONCERNING NUMBER OF LEGAL  
 3-15 SERVICE CONTRACTS SOLD. Information concerning the number of legal  
 3-16 service contracts sold by a company that is submitted under Section  
 3-17 953.053 is a trade secret to which Section 552.110, Government  
 3-18 Code, applies.

3-19 Sec. 953.055. ADDITIONAL REQUIREMENTS FOR SALES  
 3-20 REPRESENTATIVES. (a) The executive director may deny an  
 3-21 application from a sales representative who:

3-22 (1) made a material misrepresentation or fraudulent  
 3-23 statement in the application;

3-24 (2) has had a license revoked under the Insurance  
 3-25 Code;

3-26 (3) has had a license suspended or revoked under  
 3-27 Section 82.062, Government Code; or

3-28 (4) fails to pay the fee required under Subsection  
 3-29 (b).

3-30 (b) Each registered sales representative shall pay an  
 3-31 annual registration fee in the amount set by the executive director  
 3-32 to cover the costs of administering this chapter.

3-33 Sec. 953.056. MODIFICATION OF REGISTRATION INFORMATION.  
 3-34 The executive director may adopt rules regarding the procedures and  
 3-35 fees a company or sales representative must follow and pay when  
 3-36 requesting a modification to the company's or sales  
 3-37 representative's registration information that is on file with the  
 3-38 department.

3-39 Sec. 953.057. RENEWAL OF REGISTRATION. The executive  
 3-40 director shall adopt rules for the renewal of a company's or sales  
 3-41 representative's registration, including a rule that addresses  
 3-42 late renewals.

3-43 [Sections 953.058-953.100 reserved for expansion]  
 3-44 SUBCHAPTER C. FINANCIAL SECURITY REQUIREMENTS FOR LEGAL SERVICE  
 3-45 CONTRACT COMPANIES

3-46 Sec. 953.101. FINANCIAL SECURITY REQUIREMENTS. (a) To  
 3-47 ensure the faithful performance of a company's obligations to its  
 3-48 legal service contract holders, each company must deposit and  
 3-49 maintain a form of financial security with the executive director.  
 3-50 The financial security deposited with the director must maintain at  
 3-51 all times the following market values:

3-52 (1) a company generating \$300,000 or less in annual  
 3-53 gross revenue in this state from the sale of legal service contracts  
 3-54 in the preceding year shall deposit at least \$50,000 with the  
 3-55 executive director;

3-56 (2) a company generating more than \$300,000 but less  
 3-57 than \$750,000 in annual gross revenue in this state from the sale of  
 3-58 legal service contracts in the preceding year shall deposit at  
 3-59 least \$75,000 with the executive director; and

3-60 (3) a company generating \$750,000 or more in annual  
 3-61 gross revenue in this state from the sale of legal service contracts  
 3-62 in the preceding year shall deposit at least \$100,000 with the  
 3-63 executive director.

3-64 (b) For purposes of Subsection (a), if a company that had no  
 3-65 gross revenue in this state from the sale of legal service contracts  
 3-66 in the preceding year previously generated revenue from the sale of  
 3-67 prepaid legal service contracts under Article 5.13-1, Insurance  
 3-68 Code, the company shall deposit an amount of financial security  
 3-69 based on the revenue generated from the sale of prepaid legal

4-1 service contracts under the Insurance Code in the preceding year.

4-2 (c) The department is responsible for the safeguarding of  
 4-3 financial security deposited with the executive director under this  
 4-4 section. Financial security is not subject to taxation and is to be  
 4-5 used exclusively to guarantee the company's performance of its  
 4-6 obligations to its legal service contract holders.

4-7 (d) The executive director may order an increase in the  
 4-8 amount of financial security required of a company under this  
 4-9 section if the executive director finds that there has been a  
 4-10 substantial change in the company, including an increase in the  
 4-11 amount of fees the company is charging consumers or an increase in  
 4-12 the company's annual gross revenue.

4-13 (e) Not later than the 30th day after the date the executive  
 4-14 director orders a financial security increase under Subsection (d),  
 4-15 the company may request a hearing on the issue. The executive  
 4-16 director shall hold a hearing not later than the 30th day after the  
 4-17 date a company requests a hearing.

4-18 (f) Failure of a company to meet the financial security  
 4-19 requirements in this section not later than the 30th day after the  
 4-20 date the executive director issues a final decision in the event of  
 4-21 a hearing or the 30th day after the date the period for submitting a  
 4-22 request for a hearing expires constitutes a ground for revocation  
 4-23 of the company's registration.

4-24 Sec. 953.102. REPLACEMENT OR RENEWAL OF FINANCIAL SECURITY.

4-25 (a) If a company's financial security under Section 953.101 is  
 4-26 issued or written for a specified term, not later than the 90th day  
 4-27 before the date the term expires, the company shall:

4-28 (1) replace the financial security; or

4-29 (2) notify the executive director of the company's  
 4-30 intention to renew the financial security.

4-31 (b) If, not later than the 60th day before the date the term  
 4-32 of a company's financial security expires, the executive director  
 4-33 does not receive satisfactory notification of a company's renewal  
 4-34 or replacement of the financial security, the executive director  
 4-35 may draw on the company's financial security to the extent  
 4-36 necessary to ensure that the company's obligations to its legal  
 4-37 service contract holders are met in accordance with this chapter.

4-38 Sec. 953.103. DURATION OF DEPOSIT OF FINANCIAL SECURITY.

4-39 The executive director shall maintain a company's financial  
 4-40 security deposit so long as the company continues to do business in  
 4-41 this state. When a company ceases to do business in this state and  
 4-42 furnishes the executive director with satisfactory proof that the  
 4-43 company has discharged or otherwise adequately met all obligations  
 4-44 to its legal service contract holders in this state, the executive  
 4-45 director shall release the deposited financial security to the  
 4-46 company.

4-47 Sec. 953.104. SUIT ON FINANCIAL SECURITY. (a) The state,  
 4-48 on behalf of a legal service contract holder injured because of a  
 4-49 company's violation of this chapter, may bring a suit for payment  
 4-50 from the company's financial security deposit held by the executive  
 4-51 director.

4-52 (b) The state is the only party that may bring suit for  
 4-53 payment from a company's financial security deposit held by the  
 4-54 executive director. This chapter does not create a private right of  
 4-55 action.

4-56 (c) The state may only seek damages for the cost of the legal  
 4-57 services the company failed to provide to a legal service contract  
 4-58 holder under the terms of the legal service contract.

4-59 (d) The court shall determine the amount the executive  
 4-60 director shall pay the consumer from the company's financial  
 4-61 security deposit held by the executive director.

4-62 [Sections 953.105-953.150 reserved for expansion]

4-63 SUBCHAPTER D. PRACTICE BY LEGAL SERVICE CONTRACT COMPANIES

4-64 Sec. 953.151. COMPANY REQUIREMENTS. (a) A company may not  
 4-65 sell, offer for sale, or issue a legal service contract in this  
 4-66 state unless the company gives the legal service contract holder:

4-67 (1) a receipt for, or other written evidence of, the  
 4-68 purchase of the contract; and

4-69 (2) a copy of the legal service contract.

5-1 (b) A company shall perform the services as stated in the  
 5-2 legal service contract.

5-3 Sec. 953.152. GROUP LEGAL SERVICE CONTRACTS. A company may  
 5-4 issue group legal service contracts. The company shall provide a  
 5-5 legal service contract holder who obtains a group contract with a  
 5-6 document that describes the company's services and complies with  
 5-7 the requirements of this chapter.

5-8 Sec. 953.153. CONTRACTING ATTORNEY REQUIREMENTS. A  
 5-9 contracting attorney must:

5-10 (1) be licensed in the jurisdiction in which the legal  
 5-11 services are performed;

5-12 (2) be in good standing with the entity that licenses  
 5-13 attorneys in that jurisdiction; and

5-14 (3) maintain professional liability and errors and  
 5-15 omissions insurance with minimum annual limits of \$100,000 for each  
 5-16 occurrence and \$300,000 in the aggregate.

5-17 Sec. 953.154. COMPANY INTERFERENCE WITH ATTORNEY'S DUTIES  
 5-18 PROHIBITED. A company may not interfere with the attorney-client  
 5-19 relationship or with the contracting attorney's independent  
 5-20 exercise of professional judgment.

5-21 Sec. 953.155. COMPANY RECORDS. (a) A company shall  
 5-22 maintain accurate accounts, books, and other records regarding  
 5-23 transactions regulated under this chapter. The company's records  
 5-24 must include:

5-25 (1) a copy of each unique form of legal service  
 5-26 contract filed with the executive director under Section 953.156;

5-27 (2) the name and address of each legal service  
 5-28 contract holder;

5-29 (3) a list of the sales representatives authorized by  
 5-30 the company to market, sell, or offer to sell the company's legal  
 5-31 service contracts;

5-32 (4) a copy of each contract entered into between the  
 5-33 company and a contracting attorney; and

5-34 (5) a list of complaints the company has received from  
 5-35 legal service contract holders, including the name of the sales  
 5-36 representative involved in the transaction leading to the  
 5-37 complaint.

5-38 (b) The records required by this section may be maintained  
 5-39 in an electronic medium or through other recordkeeping technology.  
 5-40 If a record is not in a hard copy, the company must be able to  
 5-41 reformat the record into a legible hard copy at the request of the  
 5-42 executive director.

5-43 (c) Except as provided by Subsection (d), a company shall  
 5-44 retain the records required by this section until at least the  
 5-45 second anniversary of the termination date of the specified period  
 5-46 of coverage under the legal service contract.

5-47 (d) A company that discontinues business in this state shall  
 5-48 retain its records until the company furnishes the executive  
 5-49 director with proof satisfactory to the executive director that the  
 5-50 company has discharged all obligations to legal service contract  
 5-51 holders in this state.

5-52 Sec. 953.156. FORM OF LEGAL SERVICE CONTRACT AND REQUIRED  
 5-53 DISCLOSURES. (a) A legal service contract must be filed with the  
 5-54 executive director before it is marketed, sold, offered for sale,  
 5-55 administered, or issued in this state. Any subsequent endorsement  
 5-56 or attachment to the contract must also be filed with the executive  
 5-57 director before the endorsement or attachment is delivered to legal  
 5-58 service contract holders.

5-59 (b) A legal service contract marketed, sold, offered for  
 5-60 sale, administered, or issued in this state must:

5-61 (1) be written, printed, or typed in clear,  
 5-62 understandable language that is easy to read;

5-63 (2) include the name and full address of the company;

5-64 (3) include the purchase price of the contract and the  
 5-65 terms under which the contract is sold;

5-66 (4) include the terms and restrictions governing  
 5-67 cancellation of the contract by the company or the legal service  
 5-68 contract holder;

5-69 (5) identify:

6-1                                   (A) any administrator, if the administrator is  
6-2 not the company;  
6-3                                   (B) the sales representative; and  
6-4                                   (C) the name of the legal service contract  
6-5 holder;  
6-6                                   (6) include the amount of any deductible or copayment;  
6-7                                   (7) specify the legal services and other benefits to  
6-8 be provided under the contract, and any limitation, exception, or  
6-9 exclusion;  
6-10                                  (8) specify the legal services, if any, for which the  
6-11 company will provide reimbursement and the amount of that  
6-12 reimbursement;  
6-13                                  (9) specify any restriction governing the  
6-14 transferability of the contract or the assignment of benefits;  
6-15                                  (10) include the duties of the legal service contract  
6-16 holder;  
6-17                                  (11) include the contact information for the  
6-18 department, including the department's toll-free number and  
6-19 electronic mail address, as well as a statement that the department  
6-20 regulates the company and the company's sales representatives;  
6-21                                  (12) explain the method to be used in resolving the  
6-22 legal service contract holder's complaints and grievances;  
6-23                                  (13) explain how legal services may be obtained under  
6-24 the legal service contract;  
6-25                                  (14) include a provision stating that no change in the  
6-26 contract is valid until the change has been approved by an executive  
6-27 officer of the company and unless the approval is endorsed or  
6-28 attached to the contract;  
6-29                                  (15) include any eligibility and effective date  
6-30 requirements, including a definition of eligible dependents and the  
6-31 effective date of their coverage;  
6-32                                  (16) include the conditions under which coverage will  
6-33 terminate;  
6-34                                  (17) explain any subrogation arrangements;  
6-35                                  (18) contain a payment provision that provides for a  
6-36 grace period of at least 31 days;  
6-37                                  (19) include conditions under which contract rates may  
6-38 be modified; and  
6-39                                  (20) include any other items required by the executive  
6-40 director as determined by rule.  
6-41                                  Sec. 953.157. TERMINATING A LEGAL SERVICE CONTRACT. A  
6-42 legal service contract holder may terminate the legal service  
6-43 contract if the legal service contract holder provides the company  
6-44 with written notice of the legal service contract holder's  
6-45 intention of terminating the contract not later than the seventh  
6-46 day after the date the legal service contract holder receives the  
6-47 contract.  
6-48                                  Sec. 953.158. VOIDING A LEGAL SERVICE CONTRACT. (a) If a  
6-49 legal service contract holder terminates a legal service contract  
6-50 in accordance with Section 953.157 and the holder has not sought  
6-51 legal services under the contract before the contract is  
6-52 terminated, the contract is void.  
6-53                                  (b) A legal service contract holder may void the legal  
6-54 service contract at a later time as provided by the contract.  
6-55                                  (c) If a legal service contract is voided, the company shall  
6-56 refund to the legal service contract holder or credit to the account  
6-57 of the legal service contract holder the full purchase price of the  
6-58 contract. If the company does not pay the refund or credit the  
6-59 legal service contract holder's account before the 46th day after  
6-60 the date the contract is voided, the company is liable to the legal  
6-61 service contract holder for a penalty each month an amount remains  
6-62 outstanding. The monthly penalty may not exceed 10 percent of the  
6-63 amount outstanding.  
6-64                                  (d) The right to void a legal service contract is not  
6-65 transferable.  
6-66                                  Sec. 953.159. CANCELING A LEGAL SERVICE CONTRACT. (a) A  
6-67 company may cancel a legal service contract by mailing a written  
6-68 notice of cancellation to the legal service contract holder at the  
6-69 legal service contract holder's last known address according to the

7-1 records of the company. The company must mail the notice before the  
 7-2 fifth day preceding the effective date of the cancellation. The  
 7-3 notice must state the effective date of the cancellation and the  
 7-4 reason for the cancellation.

7-5 (b) The company is not required to provide prior notice of  
 7-6 cancellation if the legal service contract is canceled because of:

7-7 (1) nonpayment of the consideration for the contract;  
 7-8 (2) a material misrepresentation by the legal service  
 7-9 contract holder to the company;

7-10 (3) a substantial breach of a duty by the legal service  
 7-11 contract holder; or

7-12 (4) cancellation of the contract by the legal service  
 7-13 contract holder.

7-14 Sec. 953.160. LIMITATIONS ON COMPANY NAME. (a) A company  
 7-15 may not use a name that:

7-16 (1) includes "insurance," "casualty," "surety," or  
 7-17 "mutual" or any other word descriptive of the insurance, casualty,  
 7-18 or surety business; or

7-19 (2) is deceptively similar to the name or description  
 7-20 of an insurance or surety corporation or to the name of any other  
 7-21 company.

7-22 (b) This section does not apply to a company that, before  
 7-23 September 1, 2003, included a word prohibited under this section in  
 7-24 its name. A company described by this subsection must include in  
 7-25 each legal service contract a statement substantially similar to  
 7-26 the following: "This agreement is not an insurance contract."

7-27 Sec. 953.161. MISLEADING STATEMENTS PROHIBITED. A company,  
 7-28 a sales representative, or a representative of a sales  
 7-29 representative may not, in the company's contracts or marketing:

7-30 (1) make, permit, or cause to be made any false or  
 7-31 misleading statement; or

7-32 (2) deliberately omit a material statement if the  
 7-33 omission would be considered misleading.

7-34 Sec. 953.162. APPOINTMENT AND RESPONSIBILITIES OF  
 7-35 ADMINISTRATOR. (a) A company may appoint an administrator or  
 7-36 designate a person to be responsible for:

7-37 (1) all or any part of the administration or sale of  
 7-38 legal service contracts; and

7-39 (2) compliance with this chapter.

7-40 (b) The executive director may adopt rules regarding the  
 7-41 registration of an administrator with the department.

7-42 [Sections 953.163-953.200 reserved for expansion]

#### 7-43 SUBCHAPTER E. DISCIPLINARY ACTION

7-44 Sec. 953.201. DISCIPLINARY ACTION. On a finding that a  
 7-45 ground for disciplinary action exists under this chapter, the  
 7-46 executive director may impose an administrative sanction,  
 7-47 including any administrative penalty, as provided by Chapter 51.

7-48 Sec. 953.202. EMERGENCY CEASE AND DESIST ORDER. (a) The  
 7-49 executive director may issue an emergency cease and desist order to  
 7-50 enforce this chapter if the executive director determines that an  
 7-51 emergency exists requiring immediate action to protect the public.

7-52 (b) The executive director may issue the emergency cease and  
 7-53 desist order without notice and hearing if the executive director  
 7-54 determines that an immediate issuance is necessary under the  
 7-55 circumstances.

7-56 (c) The executive director shall set the time and place for  
 7-57 a hearing to affirm, modify, or set aside an emergency cease and  
 7-58 desist order that was issued without a hearing.

7-59 Sec. 953.203. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The  
 7-60 executive director may institute an action against a company or  
 7-61 sales representative for injunctive relief under Section 51.352 to  
 7-62 restrain a violation or a threatened violation of this chapter or an  
 7-63 order issued or rule adopted under this chapter.

7-64 (b) In addition to the injunctive relief provided by  
 7-65 Subsection (a), the executive director may institute an action for  
 7-66 a civil penalty as provided by Section 51.352.

7-67 Sec. 953.204. ADMINISTRATIVE PROCEDURE. Sections 51.310,  
 7-68 51.353, and 51.354 apply to a disciplinary action taken under this  
 7-69 chapter.

8-1 Sec. 953.205. APPEAL. A person affected by a ruling, order,  
8-2 decision, or other action of the executive director or department  
8-3 may appeal by filing a petition in a district court in Travis  
8-4 County.

8-5 SECTION 2. Article 5.13-1, Insurance Code, is amended by  
8-6 adding Subsection (h) to read as follows:

8-7 (h) An insurer may not issue or renew a prepaid legal  
8-8 service contract under this article after March 1, 2004.

8-9 SECTION 3. Subsection (b), Section 951.003, Occupations  
8-10 Code, is amended to read as follows:

8-11 (b) A law pertaining to legal service contracts under  
8-12 Chapter 953 or insurance does not apply to a program under this  
8-13 chapter.

8-14 SECTION 4. (a) Chapter 953, Occupations Code, as added by  
8-15 this Act, applies only to:

8-16 (1) a legal service contract entered into on or after  
8-17 March 1, 2004; or

8-18 (2) a legal service contract entered into before March  
8-19 1, 2004, that meets the requirements of Subsection (c) of this  
8-20 section.

8-21 (b) A person regulated under Chapter 953, Occupations Code,  
8-22 as added by this Act, is not required to comply with that chapter  
8-23 until March 1, 2004, but may implement the requirements of that  
8-24 chapter before March 1, 2004. The failure of a legal service  
8-25 contract company or other person to comply with Chapter 953,  
8-26 Occupations Code, as added by this Act, or otherwise to administer a  
8-27 legal service contract plan in the manner required by that chapter  
8-28 before March 1, 2004, is not admissible in any court, arbitration,  
8-29 or alternative dispute resolution proceeding and may not otherwise  
8-30 be used to prove that the action of any person or the affected legal  
8-31 service contract was unlawful or otherwise improper.

8-32 (c) The Texas Department of Licensing and Regulation and the  
8-33 Texas Department of Insurance may enter into a memorandum of  
8-34 understanding for a transition plan to transfer the regulation of  
8-35 legal service contracts from the Texas Department of Insurance to  
8-36 the Texas Department of Licensing and Regulation. The transition  
8-37 plan at a minimum shall:

8-38 (1) allow persons licensed under Chapter 21, Insurance  
8-39 Code, who have not registered with the Texas Department of  
8-40 Licensing and Regulation to continue to sell legal service  
8-41 contracts regulated by the Texas Department of Licensing and  
8-42 Regulation until March 1, 2004; and

8-43 (2) allow a prepaid legal service contract issued  
8-44 subject to Article 5.13-1, Insurance Code, to be maintained by the  
8-45 legal service contract holder if:

8-46 (A) the insurer that issued the contract or a  
8-47 related entity is registered with the Texas Department of Licensing  
8-48 and Regulation under Chapter 953, Occupations Code, as added by  
8-49 this Act, not later than March 1, 2004;

8-50 (B) the legal service contract complies with the  
8-51 requirements established by Chapter 953, Occupations Code, as added  
8-52 by this Act, for a legal service contract; and

8-53 (C) any addition or deletion to the contract made  
8-54 by a legal service contract company registered with the Texas  
8-55 Department of Licensing and Regulation is approved by the company  
8-56 and the approval is endorsed or attached to the contract.

8-57 SECTION 5. This Act takes effect September 1, 2003.

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